

and marine segments. Ecology submitted the freshwater (Phase 1) Deschutes TMDL to EPA for approval on December 17, 2015. (b) (5)

The submitted 2015 TMDL package included a request that EPA approve allocations for 73 Water Quality Limited Segments (WQLSs) impaired by five pollutants (temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment). Beginning in February 2016, EPA has discussed with Ecology opportunities to remedy legal and technical shortcomings of the TMDL that have been identified by both EPA (WU, ORC) and potential plaintiffs (NWEA, Squaxin Island Tribe). (b) (5)

(b) (5)

Ecology chose to send another submittal letter concerning the Deschutes TMDL on July 17, 2017, and asked EPA "to focus" on a smaller subset (n = 46; 73-27) of TMDLs for bacteria, temperature, and fine sediment. The 2017 letter includes nuanced language that infers Ecology will revisit 'unapproved segments' as part of the Budd Inlet TMDL. In addition, the 2017 letter included bacteria and water temperature TMDL improvements prepared by EPA to assist Ecology to remedy acknowledged deficiencies. (b) (5) ACP

Deschutes (WA) TMDL Key Dates

Dates	Event
2004	Sampling Plan Completed
2003 - 2007	Monitoring
2007 - 2014	TMDL Development
April 2014	Announcement to Submit Freshwater Components Only
December 2015	Ecology Submitted TMDL to EPA
February - October 2016	EPA Concerns Shared with Ecology
June 2016	Ecology Hosted Squaxin Island Tribe – Tribal Coordination Meeting
August 2016	EPA/Ecology Discussion with NWEA in Portland, OR
(b) (5)	
January 2017	EPA Received Puget Sound FOIA from NWEA
March 2017	EPA Developed Bacteria TMDLs
June 2017	EPA & Ecology Negotiate "Resubmit" Letter
July 2017	EPA Received Resubmit Letter from Ecology
(b) (5)	
August 2017	EPA Received Deschutes NOI from NWEA
(b) (5)	
October 13, 2017	EPA Region 10 Discussion with NWEA, re: NOI

V. KEY ISSUES

(b) (5)

- NWEA provided a mandatory duty NOI on August 23, 2017
- A conversation with NWEA on October 13, 2017 indicates the July 2017 resubmittal letter will not deter litigation

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VI. ADDITIONAL POLICY AND LEGAL INFORMATION

Section 303(d)(2) of the CWA requires EPA to “either approve or disapprove [a TMDL] not later than thirty days after the date of submission.” If EPA disapproves a TMDL, Section 303(d)(2) requires EPA to issue a substitute TMDL within 30 days of disapproval. (b) (5)

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(b) (5)



VII. RECOMMENDATION

Work-in-Progress, to be distributed to DRA no later than October 26, 2017

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(5)



IX. NEXT STEPS / UPCOMING DEADLINES

- *Schedule additional briefing with [???] by ??/2017*
- *Dave will communicate recommended path forward to Ecology by ??/2017*
- *Elaboration pending receipt of lawsuit and determination of final recommended option*

(b) (5)



(b) (5)

